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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Administration of the)	CC Docket No. 92-237
North American Numbering Plan)	
Carrier Identification Codes (CICs))	

Petition for Limited Waiver

Silver Star Telephone Company, Inc. ("Silver Star"), by counsel and pursuant to Section 1.3 of the Rules of the Federal Communications Commission ("Commission"),¹ hereby requests a limited waiver of the January 1, 1998 deadline for the provision of four digit Feature Group D Carrier Identification Code ("CIC") functionality² until August 31, 1998, when its Irwin, Idaho exchange will be technically capable of providing this function.

Silver Star currently is in the last year of a multi-year network upgrade project. As a result of its efforts to provide improved and additional services, seven of Silver Star's eight offices will have the four digit CIC functionality as of January 1, 1998. One remaining office in Irwin, Idaho, serving approximately 407 access lines, cannot be converted by the January 1, 1998 deadline without Silver Star incurring excessive additional costs and expense.³

¹/ 47 C.F.R. § 1.3 (1996).

²/ See In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc., Second Report and Order, CC Docket No. 92-237, FCC 97-125, released April 11, 1997, pet. recon. pending ("Second Report and Order").

³/ Recently, the Commission's Common Carrier Bureau ("CCB") has deemed the following factors relevant in granting requests for limited waivers of the four-digit CIC function: "the LEC's diligence in upgrading its switches; the availability from manufacturers of products required to accomplish the upgrade; and the impact of an extension of the conversion deadline

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Accordingly, Silver Star submits that grant of this limited waiver will serve the public interest.

In support of this request, the following is shown.

I. Background

A. General

Silver Star is an incumbent Local Exchange Carrier ("LEC") headquartered in Freedom, Wyoming, serving approximately 3,000 access lines in western Wyoming and eastern Idaho. In 1992, Silver Star began the phased conversion of all of its six exchanges to equal access. This process was completed May 1, 1994. In 1991, Silver Star also began a series of network-wide equipment upgrades to bring new services to its customers, including the four digit CIC function, and commenced a network reconfiguration to route traffic more efficiently.

Silver Star was aware of the need to migrate to four digit CIC capability and anticipated being in compliance with the originally proposed six year transition required for conversion to four digit CICs, i.e., by the year 2000.⁴ Prior to the adoption of the Second Report and Order, Silver Star anticipated its network upgrade plan to be completed by August 31, 1998. Upon

(Footnote Continued from Previous Page)

on the IXCs served by the LEC's switches and on customers' ability to reach IXCs through CAC dialing." Clarks Telecommunications, Co., et al., NSD File Nos. 97-53, 97-56, 97-46; 97-51; 97-54; 97-55; 97-47; 97-48; 97-49; 97-50, DA 97-2528, released December 3, 1997 at ¶ 15. Each of these factors has been addressed by Silver Star. Based on the specific factual circumstances confronting Silver Star, Silver Star respectfully submits that a grant of the limited waiver requested herein is in the public interest.

⁴/ Second Report and Order at ¶ 4.

issuance of the Second Report and Order,⁵ however, Silver Star recognized the difficulty in complying with the January 1, 1998, deadline⁶ for the Irwin exchange, and immediately attempted to expedite the conversion of this office.⁷

B. Status of the Irwin, Idaho Exchange

For the reasons stated below, Silver Star submits that it would be economically unreasonable to alter its network upgrade project to achieve four digit CIC functionality in the Irwin exchange by the January 1, 1998 deadline. Silver Star has explored all reasonable alternatives and has determined that additional time is necessary for it to complete the upgrade and conversion of the Irwin exchange in an economically sound manner. Silver Star anticipates

^{5/} In the Second Report and Order, the Commission found that the transition from the concurrent use of three digit CICs and four digit CICs "should end as soon as practicable, and that shortening the originally proposed six-year transition to a two-year and nine month transition will serve the overall pro-competitive purposes of the [Telecommunications Act of 1996]. . . ." The Commission concluded that the shorter transition gave "carriers and equipment owners a reasonable period to complete upgrading their equipment and educating customers about the change from three digit Feature Group D CICs to four digit Feature Group D CICs." *Id.* at ¶ 27. On reconsideration, however, the Commission affirmed the January 1, 1998 date for LEC compliance, but extended the concurrent use of three and four digit CICs until June 30, 1998. See In the Matter of Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking ("Reconsideration Order") at ¶ 20, CC Docket No. 92-237, released October 22, 1997.

^{6/} By Order, issued July 18, 1997, the Common Carrier Bureau denied a request for stay of the Second Report and Order. See In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Order, CC Docket No. 92-237, FCC 97-1524, released July 18, 1997.

^{7/} See attached Declaration of Ron McCue, Vice President, Silver Star Telephone Company, Inc. The Declaration bears a facsimile signature; the original signed Declaration will be filed with the Commission upon receipt by counsel. The vast majority of upgrades required to achieve four digit CIC function throughout Silver Star's network have been completed; currently, five of Silver Star's six existing exchanges are capable of providing the four digit CIC function by the January 1, 1998 deadline. Accordingly, this request applies solely to the Irwin, Idaho exchange.

completion of all upgrades and changes necessary to provide the four digit CIC function in the Irwin exchange by August 31, 1998.

As a part of Silver Star's network upgrade project, the Irwin exchange, currently a Nortel DMS 10 end office with Generic Release 403.31 software,⁸ will be converted to a digital Nortel remote and re-homed via microwave transmission facilities to Silver Star's digital host office at Freedom, Wyoming. Silver Star fully anticipates that its network plan will promote greater network efficiencies.

In late 1995, Silver Star began the Irwin phase of its overall network upgrade project by selecting the "Red Peak" site for the microwave facilities necessary to connect Irwin with the host office in Freedom. Irwin and Freedom are approximately 45 miles apart, and are located in valleys separated by a 10,000 foot mountain peak in the Caribou Mountain Range within the Caribou National Forest. The Red Peak site which lies between these two communities was selected to ensure optimum "line of site" between the Freedom and Irwin offices.

In 1996, Silver Star's technicians surveyed the site. Silver Star understands that the Caribou National Forest Service will continue its archaeological assessment after the winter months of December, 1997 and January, 1998. Because this area is an officially designated National Forest, National Environmental Policy Act ("NEPA") and the Commission's rules implementing NEPA (47 C.F.R. §§ 1.1301 to 1.1319) require that a favorable environmental assessment ("EA") be made prior to Silver Star's obtaining authority to construct and operate the microwave facilities. Silver Star anticipates favorable action by the Forest Service which will enable Silver Star to proceed to file its application and EA for the requisite microwave

⁸/ Generic Release 403.31 does not provide the four digit CIC function.

facilities with the Commission. As soon as a construction permit is issued, Silver Star will order all equipment necessary to effect this network change so that the office may be placed into service during the third quarter of 1998.⁹ Even assuming a grant early next year by the National Forest Service, and the receipt of all necessary Commission approvals for the microwave facilities at Red Peak, construction cannot commence at the site until May, at the earliest, due to the extreme winter weather conditions from October through April in this region.

Silver Star has determined that it would cost approximately \$81,000 to install the software platform necessary to provide four digit CIC capability within the Irwin exchange now, only to have the office replaced by remote equipment, and re-homed off of the Freedom office within the next nine months. Silver Star's budget for the complete change-out of equipment and reconfiguration is approximately \$90,000.¹⁰ By continuing its current plan, Silver Star can avoid the cost of upgrading the current switch with new software since four digit CIC capability would be derived from the Freedom office. Likewise, Silver Star's plan will avoid burdening customers served by the Irwin exchange with the additional cost associated with the purchase of this software. Accordingly, Silver Star submits that the investment in Generic Release 405.21

^{9/} Silver Star has been informed by its microwave equipment vendor that it should receive equipment within 90 days of placing its order.

^{10/} The Irwin exchange was converted to equal access on May 1, 1994. To the best of Silver Star's knowledge, Generic Release 405.21 (which provides the four digit CIC function) was generally available for the Nortel DMS 10 in February, 1993, and would cost approximately \$81,000 to install based on the Generic in operation at the Irwin exchange. Since the Irwin exchange was part of Silver Star's overall network upgrade project, Silver Star concluded that it would be more efficient to proceed as planned. Under the long-term plan, the Irwin exchange is to be replaced with a remote at approximately the same cost while reducing Silver Star's cost of upgrading this remote in the future. Accordingly, Silver Star did not perform the upgrade to Generic 405.21 at the time the Irwin exchange was converted to equal access.

is uneconomic and wasteful; continuation of Silver Star's existing plan would avoid burdening its customers with these additional costs.¹¹

Moreover, the planned re-homing of the Irwin exchange, requires a six-month notification to affected interexchange carriers ("IXCs") pursuant to industry procedures. Concurrent with its completion of this notification, the Irwin exchange will be upgraded and capable of the four digit CIC functionality in the third quarter of 1998.

^{11/} Silver Star also has investigated the possibility of rerouting all of the traffic from the Irwin exchange through tariffed service offerings of US West, which would allow calls originating from the Irwin exchange to be processed and switched from Silver Star's Freedom office. This routing would require traffic to be sent to US West from the Irwin exchange to Idaho Falls, Idaho, from Idaho Falls to Pocatello, Idaho, from Pocatello to Boise, Idaho, from Boise to Soda Springs, Idaho, from Soda Springs to Wayan, Idaho, and, then, finally, from Wayan to Silver Star's exchange located in Freedom, Wyoming. Based on its preliminary review of the applicable tariffed rates and charges, this routing would cost approximately \$34,000 for the requested 8 month waiver period, or approximately \$8,600 for the two months after the June 30, 1998 date that the permissive dialing period ends. With regard to the latter figure, Silver Star notes that this estimate is in excess of the average local service revenue generated for the 407 customers located in the Irwin exchange for a two month period. Accordingly, Silver Star submits that this expenditure is not justified economically. Moreover, since the proposed rerouting would require separate transport through several US West offices, there is an increased risk of network difficulties to the Irwin exchange. This risk, in Silver Star's view, is not technically justified. Finally, Silver Star does not believe it reasonable for the period of time at issue to provide the rerouting and rely on another LEC's network, when its current plan provides for the provision of service through its own network beginning September 1, 1998.

II. Good Cause Exists For Grant Of Waiver

Silver Star submits that good cause exists for this waiver.¹² As demonstrated herein, it would be infeasible for Silver Star to comply with the January 1, 1998 deadline for conversion to the four digit CIC capability in the Irwin facilities without disrupting its on-going network upgrade project and incurring additional and unnecessary expense. Silver Star is "striving, and will continue to strive, to achieve compliance with the four-digit CIC requirement by January 1, 1998."¹³ Despite this effort, however, Silver Star cannot accomplish full compliance with the four digit CIC requirements by the January 1, 1998 date without deploying wasteful investment or incurring unnecessary expense. Accordingly, Silver Star requests an extension of time, until August 31, 1998, to implement four digit CIC capability in the Irwin exchange. This limited waiver will enable Silver Star to continue and complete its conversion and upgrade of switch facilities at Irwin to support the four digit CIC function in a rational, efficient manner. As the Commission has recognized, some LECs will not be able to convert their switches by the January 1, 1998 deadline, and that such LECs "must seek relief from the Commission prior to that date."¹⁴ The Commission also recognized that "on balance" the public interest is best

¹²/ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³/ Reconsideration Order at ¶ 24.

¹⁴/ Id.

served by moving to use of four-digit CICs as soon as possible.¹⁵ Silver Star submits that by striving to complete the final stage of its network upgrade project as quickly as possible, it is acting in a manner consistent with the Commission's policies and directives in this proceeding.¹⁶

Silver Star's planning activities, decisions regarding facilities upgrades, and much of its deployment of network upgrades and reconfiguration predate the Commission's April 11, 1997 decision establishing the January 1, 1998, deadline. In recognition of the new deadline, Silver Star has made every attempt to achieve compliance in the Irwin exchange by the deadline. Grant of this request will allow Silver Star to complete its network reconfiguration and deploy new switch facilities in the most rational and efficient manner which, in turn, will benefit its subscribers. It would be unduly burdensome, if not impossible, for Silver Star to alter substantially the network changes it began more six years ago. Moreover, it would be inequitable if Silver Star's customers were required to bear the additional burden of uneconomic costs resulting from requiring an abrupt change in Silver Star's plans. Any brief delay in the provision of four digit CIC capability within a small portion of Silver Star's service area, therefore, is clearly of minor impact when compared to the costs associated with Silver Star changing its plans midstream.

Silver Star anticipates that the only IXCs to be affected by a grant of this limited waiver are those that have been issued new four digit CICs. As is the situation today, these carriers are not able to receive carrier access code calls originated from Silver Star's customers in the

^{15/} Id. at ¶ 25.

^{16/} Id. at ¶ 24.

Irwin exchange. However, IXC's with three digit CIC's will continue to have carrier access code calling on and until the June 30, 1998 date when the use of three digit CIC's will end.¹⁷ While seven-digit carrier access code ("CAC") calling in the Irwin exchange will be unavailable for approximately eight weeks following the June 30, 1998 date, Silver Star submits that, on balance, the public interest would best be served by this brief delay in light of the costs associated with the only reasonable alternative available to Silver Star. Further, Silver Star notes that the need for casual calling from the Irwin exchange may be minimized.

Recently, Silver Star was involved in hearings associated with a request (which Silver Star supports) to expand the available Extended Area Service ("EAS") offerings from the Irwin exchange. Based on public testimony during these hearings, Silver Star learned that casual calling from the Irwin exchange is used in order to permit calling between exchanges that would otherwise be converted to EAS under the request. Action on this request is anticipated later this year. Accordingly, Silver Star submits that, based on this public testimony, the need for casual calling from the Irwin exchange may be minimized if the request for additional EAS routes is granted.

III. Conclusion

In light of these specific facts and circumstances, Silver Star submits that good cause exists for this limited waiver of the January 1, 1998, deadline until August 31, 1998, for conversion to four digit CIC capability in the Irwin, Idaho exchange, and any attendant customer education requirement. As demonstrated herein, Silver Star has diligently made efforts to upgrade its switch in the most economically efficient manner without incurring the expense of

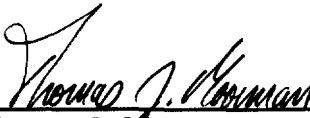
^{17/} Id. at ¶ 20.

wasteful upgrades or rerouting of traffic. Further, the overall cost associated of complying with the January 1, 1998 deadline for four-digit CIC functionality outweighs any impact on IXCs served by the Irwin exchange and on the Irwin exchange customers' ability to utilize CAC calling to reach IXCs. While Silver Star will make every reasonable effort to expedite the date of completion of conversion to four digit CICs, it anticipates that the extension to August 31, 1998 is necessary to ensure the deployment of the four digit CIC feature in a reasonably efficient manner.

Respectfully submitted,

Silver Star Telephone Company, Inc.

By:



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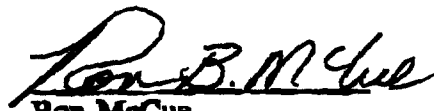
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December 5, 1997

**DECLARATION OF RON MCCUE
VICE PRESIDENT, SILVER STAR TELEPHONE COMPANY, INC.**

I, Ron McCue, Vice President of Silver Star Telephone Company, Inc., do hereby declare under penalties of perjury that I have read the foregoing "Petition for Limited Waiver" and the information contained therein is true and accurate to the best of my knowledge, information, and belief.



Ron McCue
Vice President
Silver Star Telephone Company, Inc.

Date: December 5, 1997

CERTIFICATE OF SERVICE

I, Shelley Bryce, of Kraskin & Lesse, LLP, 2120 L Street, NW, Suite 520, Washington, DC, 20037, hereby certify that on this 5th day of December, 1997, a copy of the attached "Petition for Limited Waiver" was hand delivered to the parties listed below:


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